

ETHICS REFORM ACT OF 2006
A MANUAL FOR LOBBYISTS AND EMPLOYERS OF LOBBYISTS

TENNESSEE ETHICS COMMISSION



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FOREWORD

Lobbying is an integral part of our nation's democratic process and is a constitutionally guaranteed right. Government officials are continuously making public policy decisions that affect the vital interest of individuals, corporations, labor organizations, religious groups, charitable institutions and other entities. Public officials need to receive factual information from affected interests and also need to know such parties' views in order to make informed policy judgments. In exercising their rights to influence public policy, interests often choose to employ lobbyists and, today, thousands of men and women are engaged in the profession and represent virtually every type of interest. To help preserve and advance public trust and confidence in our democratic institutions and the public policy advocacy process, lobbyists and their employers have a duty to conduct themselves ethically when dealing with government officials.

The 2006 Extraordinary Session of the Tennessee General Assembly resulted in the Comprehensive Governmental Ethics Reform Act of 2006, which addressed, among other items, financial disclosure requirements for lobbyists, employers of lobbyists, Legislators, State and local officials and candidates for such positions, and further prohibited certain activities. Additionally, the Tennessee Ethics Commission was established to interpret and enforce the provisions of the Act.

The Tennessee Ethics Commission was established to advance the public's confidence in government by enhancing the integrity and transparency of state and local government. As required by law, this manual was written to explain how lobbying regulations, financial disclosure and ethical conduct standards affect you. The information in this manual addresses those provisions of the Act applicable to lobbyists and employers of lobbyists. Future editions will include advisory opinions of the Ethics Commission. A complete copy of Tennessee Code Annotated §§3-6-301 through 3-6-308, which pertains to lobbyists and employers of lobbyists, is attached at the end of this manual. The following pages include fundamental information concerning lobbyist and employer of lobbyist registration, disclosure reports, prohibited activities, and penalties.

We, the commissioners of the Tennessee Ethics Commission, look forward to working with you in creating an environment where the integrity of our system of government can be further advanced.

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BACKGROUND OF THE ETHICS REFORM ACT

On December 12, 2005, Governor Phil Bredesen issued a proclamation officially calling the General Assembly into a special session to consider and act upon legislation relating to ethics in government. The Governor stated that:

The events of this past year, while difficult for all, have brought us to a moment of unprecedented opportunity for change. We must all work together to seize this moment by approving strong ethics legislation designed to change the culture in government and once again restore Tennesseans' confidence in their elected representatives.

Governor Bredesen called the special session to focus the attention, will and efforts of the Legislative and Executive branches of government on the passage of strong ethics legislation before consideration of other matters during the regular session. The announcement of a special session came several months after the Governor's Citizen Advisory Group on Ethics in Government completed an in-depth review of the issue of ethics in Tennessee and presented Governor Bredesen with its final recommendations.

During the same time period, the General Assembly's Special Joint Committee, incorporating recommendations from the Governor's Advisory Group, began drafting comprehensive ethics reform legislation.

All of these efforts resulted in enactment of the Comprehensive Governmental Ethics Reform Act of 2006, which was signed by Governor Bredesen on February 15, 2006.

THE TENNESSEE ETHICS COMMISSION

The Act created an Ethics Commission that is required to recommend "guiding principles of ethical conduct" for the General Assembly, the Executive agencies, lobbyists, and employers of lobbyists. The Commission has the responsibility to:

- promulgate rules and regulations (pursuant to the Uniform Administrative Procedures Act) to implement the provisions of the Ethics Reform Act;
- Conduct investigations, in conjunction with the Tennessee Attorney General's office;
- Compel the attendance of witnesses and the production of documents as needed to conduct its investigations;
- Conduct an annual ethics course for the Executive branch, the General Assembly, and lobbyists and employers of lobbyists (*note that each lobbyist is required to attend one ethics course annually*);
- Provide an ethics manual for lobbyists and employers of lobbyists (*note that lobbyists are required to deliver a copy of the manual to each new employer of that lobbyist and verify such delivery on the lobbyist registration statement. The employer of the lobbyist, on its initial lobbyist registration statement, must verify receipt of the manual*).

The Ethics Commission is composed of six members: two are appointed by the Governor; two are appointed by the Speaker of the House of Representatives; and two are appointed by the Speaker of the Senate. Three members must be Republicans and three must be Democrats. After initial staggered terms, members serve four-year terms and they may serve two consecutive terms.

The Commission's jurisdiction over lobbyists and employers of lobbyists is effective October 1, 2006. The Commission does not have jurisdiction to investigate or take action on any activities which occurred (or any actions which may have been required but failed to be taken) prior to October 1, 2006.

**A SUMMARY OF THE COMPREHENSIVE
GOVERNMENTAL ETHICS REFORM ACT OF 2006
AS IT PERTAINS TO LOBBYISTS AND EMPLOYERS OF LOBBYISTS**

The following contains a summary of the key requirements contained in T.C.A. §§3-6-301 - 3-6-308. The intention of this section is to provide an overview of the law as it relates to lobbyists and employers of lobbyists. A copy of the law is located in Appendix 1, and should be referred to as needed.

REQUIREMENTS FOR LOBBYISTS

A lobbyist is a person who communicates with state government officials for pay to influence action by the executive or legislative branch. Specifically, **a lobbyist is “any person who engages in lobbying for compensation.”** T.C.A. §3-6-301(7) defines “compensation” as “any salary, fee, payment, reimbursement or other valuable consideration, or any combination thereof, whether *received or to be receive*” (emphasis added).

T.C.A. §3-6-301(17) requires that: “Not later than seven days after becoming a lobbyist, the lobbyist shall register electronically with the ethics commission, and the lobbyist shall register each year thereafter if the lobbyist continues to engage in lobbying.”

The complete registration year for lobbyists runs from **October 1 through September 30**. The law further requires that the lobbyist’s registration information include:

- his or her full contact information;
- a current photographic portrait, which must be submitted to the Commission within thirty (30) calendar days after registration;
- identifying information concerning the lobbyist’s employers;
- verification of delivery of the Commission’s manual for lobbyists and employers of lobbyists; and
- a registration fee of **\$150 per employer** of the lobbyist.

The registration statement must be updated if *any event or circumstance occurs that renders the registration statement inaccurate or incomplete*. T.C.A. §3-6-302(c).

Please note that on October 1, 2006, any lobbyist with an existing relationship with an employer **MUST** register **again** within seven (7) days, *irrespective of whether the lobbyist had previously registered with the Registry of Election Finance, and irrespective of whether the lobbyist is actually lobbying. The Ethics Commission interprets the statute as requiring registration within seven days after a lobbyist or a lobbying firm has been employed to lobby. It is not an act of lobbying which triggers the requirement to register, but the act of accepting employment/retainer of employment. For the purposes of lobbyist registration requirements the lobbyist has been employed, whether the engagement is informal or informal, written or unwritten. Thus, deferring a formal written agreement until the lobbyist has begun lobbying cannot be used to circumvent the statute.* The lobbyist **MUST** register electronically by going to the Ethics Commission’s website at <http://state.tn.us/sos/tec/>. Payment shall be made by made by credit card. Once properly

re-registered with the Commission, the registration will be effective October 1, 2006 through September 30, 2007. Should a lobbyist obtain a new employer after October 1, 2006, the lobbyist must electronically file a new registration statement within seven (7) days and pay the registration fee.

A **volunteer** lobbyist is one who does not receive any compensation for his or her services other than reimbursement of actual out-of-pocket expenses and does not engage in lobbying activities for more than ten (10) days during the calendar year. A volunteer lobbyist who so qualifies need not register. **Please note that** a lobbyist who receives no compensation other than actual out-of-pocket expenses but engages in lobbying activities for *more than 10 days* during the calendar year must register with the Ethics Commission and pay the required fee. The employer of such lobbyist must also register.

Ethics Training: The Act requires the Ethics Commission to provide an annual ethics training course for lobbyists and employers of lobbyists on a date or dates when the General Assembly is not in session. Every lobbyist who must register with the Ethics Commission must annually complete a course. Please check the Commission's website (<http://state.tn.us/sos/tec/>) for further information about the availability and dates of such courses.

REQUIREMENTS FOR EMPLOYERS OF LOBBYISTS

1. REGISTRATION STATEMENTS

“Employer of a lobbyist” or “employer” means any person or entity that employs, retains, or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation. T.C.A. §3-6-302 (a). Within seven (7) days after employing a lobbyist, the employer shall electronically register with the Tennessee Ethics Commission. Each year thereafter, the employer will register in the same manner if the employer continues to employ one or more lobbyists. The registration year will run from October 1 through September 30, and the registration fee is **\$150 per lobbyist** retained by the employer.

Please note that on October 1, 2006, employers of lobbyists with existing relationships with lobbyist have seven (7) days to register with the Commission. Employers of lobbyists may register by electronically downloading the registration form from the Commission's website, <http://state.tn.us/sos/tec/>, and either delivering the statement to the Commission's offices (currently, 312 Eighth Avenue North, 8th Floor, William R. Snodgrass Tower, Nashville, Tennessee 37423) or by mailing the form (preferably by overnight service or registered or certified mail) to the Commission's address. *Checks should be made payable to the “Tennessee Ethics Commission.”*

T.C.A. §3-6-302(b)(1) requires the employer's registration statement to include:

- The employer's name, address, telephone number and e-mail address; *note that if the employer is a corporation or association, the names of the individuals performing the functions of chief executive officer and chief financial officer are also required;*

- The name and contact information of each lobbyist authorized to represent the employer; and
- Verification by the employer of the lobbyist of receipt of delivery (to the employer) by such lobbyist, of the Commission's manual for lobbyists and employers of lobbyists.

State law further requires that registration statements be updated throughout the registration year if any event or circumstance occurs which renders the statement inaccurate or incomplete. This update must be completed within seven (7) days of the change in circumstances.

If an employer retains a new or additional lobbyist, the employer has seven (7) days to submit a new registration form and pay the annual registration fee.

2. EMPLOYER DISCLOSURE REPORTS

Effective October 1, 2006, each employer of a lobbyist must file an employer disclosure report for the preceding six-month period. The first report will be due **May 15, 2007**, covering the six-month period ending March 31st. The second report year is due **November 14, 2007 and** must cover the six-month period ending September 30. In 2007, and until further notice, the forms for the reports may be electronically downloaded from the Commission's website (<http://state.tn.us/sos/tec/>) and either hand delivered or sent (preferably by overnight service or registered or certified mail) to the Commission's address.

The employer disclosure report consists of three (3) parts:

Part 1: The aggregate total amount of lobbyist compensation paid by the employer. The report is to be in monetary ranges from less than \$10,000 to \$400,000 or more. *(See the attached Appendix 1, T.C.A. section 3-6-303(a)(1), for a detailed listing of these ranges).*

Part 2: The aggregate total amount of employer expenditures incurred for the purpose of influencing legislative or administrative action through public opinion or grassroots action - excluding lobbyist compensation [expenditures related to lobbyist compensation should instead be disclosed in the first part of the report; see the attached Appendix 1, T.C.A. §3-6-303(a)(2) for specific examples of expenditures which must be disclosed in Part 2 of the report]. This report must also be filed in ranges from less than \$10,000 to \$400,000 or more in the same manner as Part 1 of the disclosure report; and

Part 3: The aggregate total amount of expenditures for events paid for by the employer to which the entire membership of the Tennessee General Assembly was invited.

PLEASE NOTE THAT, PURSUANT TO THE REFORM ACT, ALL LOBBYIST AND EMPLOYER OF LOBBYIST REGISTRATION STATEMENTS AND EMPLOYER DISCLOSURE REPORTS WILL BE POSTED ON THE COMMISSION'S WEBSITE. *In addition, the Commission is required by statute to*

perform audits, and thus will be performing random audits on at least two percent (2%) of lobbyist registrations. Employers of lobbyists may also be audited.

PROHIBITED ACTIVITIES

T.C.A. §3-6-304 states that a lobbyist or an employer of a lobbyist is prohibited from engaging in certain listed activities, with respect to members of the Legislature, officials of the Executive agencies, and employees of either branch. The statutory definition of “Official in the executive branch” includes the Governor, any member of the Governor’s staff, **any** member or **employee** of a state regulatory commission (including directors of the Tennessee Regulatory Authority), **any** member or employee of any executive department or agency or any member or employee of any other state body in the executive branch. “Official in the legislative branch” includes **any** member, member-elect, any staff person or employee of the General Assembly or any member of a commission established by the General Assembly. “Official in the legislative branch” also includes the Secretary of State, Treasurer, and Comptroller and **any** employee of such office.

Prohibited Activities include the following:

Offering anything of value

- A lobbyist or an employer of a lobbyist cannot offer (much less give) anything of value to an official in the Legislative or Executive branch, or his or her immediate family to influence the official’s vote, official action or judgment. Likewise, an official in the executive or legislative branch of government may not solicit a lobbyist or an employer of a lobbyist for anything of value to influence his or her vote, official action or judgment.

Misrepresenting Matters Lobbied

- A lobbyist or an employer of a lobbyist cannot make a false statement or misrepresent any information to an official in the executive or legislative branch about any subject matter that is covered by his or her registration statement.

Loans

- A lobbyist cannot make a loan to any candidate for public office (state or local public office) or official in the executive or legislative branch, or to anyone on their behalf. Likewise, none of these candidates or officials may solicit or accept a loan from a lobbyist

Payment for Services or Property

- A lobbyist or an employer of a lobbyist or anyone working for either (with or without compensation) cannot pay a candidate for public office or an official in the legislative or executive branch for property or services in

excess of what the lobbyist or employer would normally charge. In other words, they cannot pay government officials more than they would pay anyone else.

Credit Cards

- A lobbyist or an employer of a lobbyist or anyone working for him or her (with or without compensation) cannot permit a candidate for public office, an official in the legislative or executive branch or member of their immediate family (spouse or minor children living at home) to use the lobbyist's/employer's credit, credit card or a credit card that he or she controls.

Lodging Expenses

- A lobbyist or an employer of a lobbyist or anyone working for him or her (with or without compensation) cannot pay the lodging expenses of an official in the legislative or executive branch, or the official's immediate family members, **unless** it falls within the exception under T.C.A. § 3-6-305, discussed below.

Campaign Contributions

- A lobbyist cannot offer or make a campaign contribution, including an in-kind contribution, to the Governor or member of the General Assembly, or any candidate for the office of Governor or the General Assembly.
- An employer of a lobbyist cannot make any campaign contributions to any candidate for Governor or member of the General Assembly during either the regular or an extraordinary legislative session.
- If an employer of a lobbyist has a multi-candidate political campaign committee (PAC), the PAC cannot make any campaign contributions to any candidate for Governor or member of the General Assembly during either the regular or an extraordinary legislative session.

Contingent Fees

- An employer of a lobbyist cannot pay a fee, compensation or bonus to a lobbyist that is contingent upon achievement of a successful outcome.
- A lobbyist cannot solicit or accept a fee, compensation or bonus from an employer that is contingent upon achievement of a successful outcome.

Lobbyists Serving in Certain Public Positions

- A lobbyist cannot serve on any state board, commission or other entity of state government that regulates the business or professional activities of any of the lobbyist's employers.
- A lobbyist cannot serve as a member of the State Election Commission or any County Election Commission, except if the lobbyist is currently a member of a County Election Commission, he or she may continue to serve as long as the lobbyist does not leave that office.

GIFTS

- The general rule is that gifts, direct or indirect, to a candidate for public office, an official in the legislature or executive branch (including employees of both), or the immediate family of the candidate or official **are prohibited**; these individuals cannot attempt to solicit, directly or indirectly, a gift from a lobbyist or an employer of a lobbyist. (*see T.C.A. § 3-6-305*)

EXCEPTIONS TO GIFT PROHIBITION

PLEASE NOTE that, while there are certain EXCEPTIONS to the general PROHIBITION on gifts, discussed below, a lobbyist or an employer of a lobbyist should act with caution. Where there may be a question on whether a particular gift qualifies under the exception, a lobbyist or an employer of a lobbyist should contact the Ethics Commission for guidance or, in the alternative, avoid the questionable activity.

Items which may constitute an exception to the gift prohibition include the following:

Benefits of Employment, Etc.

- Benefits from the business, employment or outside activities of a candidate, an official in the executive or legislative branch, or immediate family – if the benefits are customarily provided and not enhanced because of the individual's status.

Informational Materials

- Informational materials such as books, audiotapes, videotapes, etc.

Personal Gifts

- Gifts given for a non-business purpose and motivated by a close personal friendship – *but only as permitted by the rules of the Commission.*

Promotional Items

- Sample merchandise, promotional items and tokens of appreciation if they are routinely given to customers and suppliers (or potential customers and suppliers) in the ordinary course of business.

Honors and Awards

- Unsolicited tokens or awards or appreciation, honorary degrees or bona fide awards in recognition of public service as long as the token or award is not in a form that can readily be converted into cash.

Benefits Available to the General Public

- Discounts given to the general public or specified groups or occupations under normal business conditions.
- Prizes and awards given in public contests.
- Benefits from participating in an in-state event sponsored by or for the benefit of a charitable organization if either: (1) the event is open to persons other than officials in the executive or legislative branch and their immediate families, or (2) invitations to the event are extended to the entire membership of the General Assembly.

Expenses – Out of State Conferences

- Authorized expenses must be paid for or reimbursed by a governmental entity or by an established and recognized organization of elected or appointed officials and/or their staff.
- “Authorized expenses” include: travel, entertainment, food, refreshments, meals, beverages, amenities, health screenings, lodging and admission tickets provided in connection with, arranged with, or coordinated with an out-of-state conference.

In-State Event for General Assembly

- Entire membership of General Assembly must be invited.
- An invitation must be delivered to each member of the General Assembly, *and a copy of the invitation must be delivered to the Ethics Commission, at least seven days (7) before the event.*

- Per person cost of event must be based on number of persons invited and cannot exceed \$50 per person per day, excluding sales tax and gratuity.
- Value of “gift” cannot be reduced by dividing cost between 2 or more lobbyists or employers of lobbyists.
- Report must be filed with Commission within 30 days after the event disclosing total aggregate cost of event, as well as per person contractual cost or actual per person cost.

Participation in In-State Event as Speaker

- Candidate for public office, official in executive or legislative branch, or family member thereof must be speaker or part of panel discussion at a scheduled meeting of an established and recognized membership organization that has regular meetings (e.g. Chamber of Commerce).
- Authorized expenses include: entertainment, food, refreshments, meals, amenities or beverages not to exceed \$50 per person per day.

In-State Event of Officials in Executive or Legislative Branch

- Limited to \$50 per person per day and not more than total of \$100 to an official during calendar year.
- Value of “gift” cannot be reduced by dividing cost among two or more employers of lobbyists.
- Exception only applies to a legislator if: (1) he/she does not receive the *per diem* for the day on which the event is held and (2) legislator does not receive anything that is not provided to non-legislators.
- Requires presence of an officer or management-level employee of each employer paying for event – which does not include the lobbyist of the employer.

Local Travel

- Occasional or incidental local travel for which no fare is ordinarily charged.

Indirect Gifts

- If you are a lobbyist and attend an event that is also attended by an official in the executive or legislative branch; **and**
- If you are a lobbyist and attend an event that is also attended by an official in the executive or legislative branch; **and**

- The official accepts a gift provided by a person who is not a lobbyist or the employer of a lobbyist; **but**
- You know, or have reason to know, that the gift was provided at the suggestion or direction of a lobbyist; **then**
- You must report the following information to the Commission within seven (7) days after the event:
 - Name of official;
 - Nature and purpose of the event;
 - Name, address and business of the person or entity that provided the gift;
 - Description of the gift; and
 - Cost of the gift, if known. If unknown, a good faith estimate of cost.

Safe Harbor Provision

If a prohibited gift is given by a lobbyist or employer of a lobbyist to a candidate for public office, official in the executive or legislative branch, or their immediate families, **the gift will not be in violation of the law if:**

- The gift is not used and returned within ten (10) days after receipt of the gift or ten (10) days after learning that the gift is prohibited; or
- Recipient pays for gift equal to or greater than its value within this same time period.

PENALTIES

The Ethics Commission may assess a civil penalty against an employer of a lobbyist and against a lobbyist for failure to timely register, pay a registration fee, or file a required report. The penalty is not more than \$25 per day up to a maximum of \$750.

The Commission may assess a civil penalty of up to \$10,000 against a lobbyist or an employer of a lobbyist who knowingly files inaccurate or incomplete statements or reports; an employer who utilizes the services of a lobbyist who is not registered; a lobbyist who lobbies without registering; or either an employer of a lobbyist or a lobbyist who violates a prohibited act or the gift prohibition.

Additionally, an intentional violation is a criminal offense and may be prosecuted by the appropriate District Attorney General. The first offense is punishable as a class C misdemeanor and a violator may face up to 30 days imprisonment and a fine of not more than \$50 or both. A second violation is a class B misdemeanor and a violator may face not more than six months imprisonment and a fine not more than \$500, or both. A third violation is a class A misdemeanor and a violator may face not more than eleven months and twenty-nine days' imprisonment and a fine of not more than \$2,500, or both.

The Ethics Commission is required annually to audit, on a random basis, the registration statements and others reports of at least 2% of all lobbyists. The Ethics Commission also has the authority, upon a finding of probable cause, to audit the registration statements and reports of an employer of a lobbyist or of a lobbyist.

FREQUENTLY ASKED QUESTIONS

1. How does the law define a lobbyist?

A lobbyist is a person who communicates with state government officials for pay to influence action by the executive or legislative branch. Specifically, a lobbyist means any person who engages in lobbying for compensation. A person shall be deemed a lobbyist if he or she has been employed to lobby, but has not yet lobbied.

2. How does the law define compensation?

“Compensation” means any salary, fee, payment, reimbursement or other valuable consideration, or any combination thereof, whether received or to be received; however, “compensation” does not include the salary or reimbursement of an individual whose lobbying is incidental to such person’s regular employment.

3. How does the law define employer of a lobbyist?

“Employer of a lobbyist” or “employer” means any person or entity that employs, retains, or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation. Thus, employment includes any agreement or understanding – formal or informal, written or unwritten.

4. When does the authority of the Ethics Commission begin?

The Commission’s jurisdiction over lobbyists and employers of lobbyists commences of October 1, 2006. The Commission has no jurisdiction, even after October 1, 2006, over any activities that occurred before October 1, 2006.

5. In 2006, I registered as a lobbyist with the Registry of Election Finance. Must I register with the Ethics Commission in 2006?

Yes, pursuant to the statute, all lobbyists with existing employers must register anew with the Ethics Commission within seven (7) days following October 1, 2006. This is so, even if the lobbyist has not yet engaged in lobbying. It is employment as a lobbyist, not lobbying, that triggers the obligation to register.

6. I am a lobbyist and currently have no employers, but I expect to have at least one by the end of the year. Must I register?

Yes, you must register within seven (7) days after being employed by an employer. You are not affected by the October 1 deadline, which only applies to lobbyists who have been employed by that date (see Question 3 above).

7. I registered as a lobbyist on October 1, 2006 but intend to have two new employers on December 1, 2006. What must I do?

You must file a new registration statement with the Commission within seven (7) days following December 1, 2006 and pay the additional registration fee of \$150 per new employer (in this case, \$300.)

8. I am a lobbyist with employers on October 1, 2006. Can I send in a paper registration form?

NO, you must file electronically by going to the Commission's website.

9. The lobbyist registration process requires that I verify that I deliver a copy of the Commission's manual for lobbyists and employers of lobbyists to my clients. Where can I find the manual?

The manual can be downloaded from the Commission's website, and either e-mailed or hand delivered in hard copy to the employer.

10. The lobbyist registration form requires that I include my photograph. How do I do that?

You must e-mail a digital photograph to the Commission at ethics.pics@state.tn.us and the Commission staff will transfer the photograph to your registration statement. Your digital photograph should comply with the following requirements:

- Saved in a jpg or gif format;
- Smaller than 5 megabytes in total size; and
- For best appearance, a pixel size of 180 pixels by 255 pixels.

11. I don't receive any compensation for lobbying other than reimbursement for my actual expenses. Must I register?

Yes, if you are engaged in lobbying activities for ten (10) or more days between October 1 and September 30. If so, your employer must also register.

12. I am an employer who has not yet employed a lobbyist for the 2007 Legislative session. Must I register?

Yes, you and the lobbyist whom you employ must register within seven (7) days after entering into a lobbying arrangement. You cannot wait until the lobbyist actually begins to lobby. Employing the lobbyist triggers the obligation to register.

13. I am an employer with an existing relationship with a lobbyist and I registered on October 1, 2006. I have entered into an agreement with an additional lobbyist. What must I do?

You must file a new registration statement and submit the additional fee of \$150 for the new lobbyist.

14. I am an employer of a lobbyist. Where can I find the registration statement?

You can electronically download the employer of a lobbyist registration form from the Commission's website and either hand deliver or mail the form to the Commission with your check made payable to the "Tennessee Ethics Commission."

15. How do I find information about the annual ethics training course for lobbyists and employers of lobbyists?

Please check the Commission's website for further information about the dates of such training courses.

16. As an employer of a lobbyist, I understand that every six months, I must file an employer disclosure statement with the Ethics Commission. When does the reporting period begin?

Effective October 1, 2006, each employer of a lobbyist must file an employer disclosure report for the preceding six-month period. The first report will be due **May 15, 2007**, covering the six-month period ending March 31. The second report of the year is due November 14, 2007, covering the six-month period ending September 30. In 2007, and until further notice, the forms for the reports may be downloaded from the Commission's website (<http://state.tn.us/sos/tec/>) and either hand delivered or sent by certified or registered mail to the Commission's address.

17. I understand that for both lobbyists and employers of lobbyists, there are numerous prohibited activities listed in the new law. Where can I obtain this information?

A summary of prohibited activities can be found starting on page 8 of this manual. For a complete listing, please refer to T.C.A. §3-6-304. **Note:** This section can be found in its entirety in Appendix 1 of this manual.

18. I understand that for both lobbyists and employers of lobbyists, there are numerous requirements, in the law, related to gift prohibitions and gift exceptions. Where can I obtain this information?

The **general rule is that gifts**, direct or indirect, to a candidate for public office, official in the legislature or executive branch including employees of both, or the immediate family of the candidate or official **are prohibited**. A summary of gift prohibitions and gift exceptions can be found starting on page 10 of this manual. For a complete listing, please

refer to T.C.A. §3-6-305. **Note:** This section can be found in its entirety in Appendix 1 of this manual.

19. Regarding the prohibitions against providing gifts and other financial benefits to government officials, do they apply only to high level officials and members of the Legislature?

No, the law applies to any official of the executive or legislative branches (which includes *all* employees of either branch).

20. If I have additional questions concerning the law and its requirements, how can I contact the Commission for advice?

For clarification of requirements or to obtain additional information, please e-mail the Commission at ethics.counsel@state.tn.us.

Appendix 1: T.C.A. §§ 3-6-301 through 3-6-308
Comprehensive Governmental Ethics Reform Act of 2006

§ 3-6-301.

As used in this part, unless the context otherwise requires:

- (1) "Administrative action" means the taking of any recommendation, report or non-ministerial action; the making of any decision or taking any action to postpone any action or decision; action of the governor in approving or vetoing any bill or resolution; the promulgation of a rule; or any action of a quasilegislative nature, by an official in the executive branch of state government; however, "administration action" does not include ordinary and routine permitting, licensing, or compliance decisions by an official of the executive branch of state government;
- (2) "Association" means any union, league, chamber of commerce, committee, club, or other membership organization;
- (3) "Attorney general" means the attorney general and reporter;
- (4) "Audit and investigatory information" means data pertaining to the nature, source, or amount of employer or lobbyist income, expenditures, receipts, assets, liabilities, net worth, or related financial or proprietary information that is received by, recorded by, prepared by, furnished to, or collected by or on behalf of the ethics commission during the course of any audit, investigation or other examination undertaken for the purpose of ensuring compliance with, or imposing civil or criminal sanctions for violation of, the provisions of this part. "Audit and investigatory information" does not include data in a form which cannot, either directly or indirectly, be associated with, or otherwise be used to identify, directly or indirectly, a particular employer or lobbyist;
- (5) "Campaign contribution" means any contribution as defined by § 2-10-102(4);
- (6) "Candidate for public office" means any individual who has made a formal announcement of candidacy or qualified under the law of this state to seek nomination for election or elections to any state public office, or has received contributions or made expenditures except for incidental expenditures to determine if one shall be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures with a view to bringing about such person's nomination for election or the election to state public office, and any individual who has been nominated for appointment as an official in the legislative or executive branch;
- (7) "Compensation" means any salary, fee, payment, reimbursement or other valuable consideration, or any combination thereof, whether received or to be received; however, "compensation" does not include the salary or reimbursement of an individual whose lobbying is incidental to such person's regular employment;
- (8) "Employer of a lobbyist" or "employer" means any person or entity that employs, retains or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation. "Employer of a lobbyist" or "employer" specifically includes any such person or entity notwithstanding the lobbyist's status as an employee, agent, contractor, subcontractor or other representative lobbying on behalf of such person or entity for compensation. "Employer of a lobbyist" or "employer" does not include the individual employees, officers, directors, or members of a corporation, labor organization, association, or membership organization other than the chief executive officer and the chief financial officer or comparable individuals within such corporation, labor organization, association, or membership organization. For purposes of employer

registration and disclosure pursuant to this part, a lobbying firm is not deemed to be the employer of any lobbyist within the firm;

(9) "Executive agency" means any commission, board, agency, or other entity in the executive branch of the state government or any independent entity of the state government that is not a part of the legislative or judicial branch;

(10) "Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, or subscription of money or anything of value, and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make an expenditure;

(11) "Gift" means any payment, honorarium, subscription, loan, advance, forbearance, rendering or deposit of money or services, unless consideration of equal or greater value is received. "Gift" does not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. "Gift" does not include the waiver of a registration fee for a conference or educational seminar;

(12) "Immediate family" means a spouse or minor child living in the household;

(13) "Influencing legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including, but not limited to, the provision or use of information, statistics, studies, or analyses, but not including the furnishing of information, statistics, studies, or analyses requested by an official of the legislative or executive branch to such official or the giving of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch;

(14) "Legislative action" means introduction, sponsorship, debate, voting or any other non-ministerial official action or non-action on any bill, resolution, amendment, nomination, appointment, report or any other matter pending or proposed in a legislative committee or in either house of the general assembly;

(15) "Lobby" means to communicate, directly or indirectly, with any official in the legislative branch or executive branch for the purpose of influencing any legislative action or administrative action. "Lobby" does not mean communications with officials of the legislative or executive branches by an elected or appointed public official performing the duties of the office held; a duly licensed attorney at law acting in a representative capacity on behalf of a client appearing before an official of the executive branch for the purpose of determining or obtaining such person's legal rights or obligations in a contested case action, administrative proceeding, or rule making procedure; or an editor or working member of the press, radio or television who in the ordinary course of business disseminates news or editorial comment to the general public. "Lobby" does not mean communications by an incumbent or prospective contractor or vendor, or an employee of such contractor or vendor, while engaged in selling or marketing to the state, or any department or agency of the state, by demonstrating or describing goods or services to be provided or by inquiring about specifications, terms, conditions, timing, or similar commercial information; provided that any such contractor or vendor or employee thereof shall be deemed to be a lobbyist solely for the purposes of §§ 3-6-304 and 3-6-305.

"Lobby" does not mean communications by an employee of a school board, municipal utility, utility district, or any department, agency or entity of state, county or municipal government; provided, however, if the board, utility, district, department, agency or entity

employs, retains or otherwise arranges for lobbyist services in this state by a contractor, subcontractor or other representative, who is not an employee of such board, utility, district, department, agency or entity, then "lobby" includes communications by such contractor, subcontractor or other representative and such contractor, subcontractor or other representative shall comply with the lobbying registration and other provisions of this chapter pertaining to lobbyists; provided further, however, the board, utility, district, department, agency or entity which employs such contractor, subcontractor or other representative is not deemed to be an employer of a lobbyist for purposes of this chapter. "Lobby" does not mean communications with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to the issuance or award of a bond, grant, lease, loan or incentive pursuant to §§ 4-3-701 – 4-3-733; and "lobby" does not mean communications with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to any component of an economic development incentive package; provided that any such person who is otherwise required to register as a lobbyist under the provisions of this act shall not be deemed to fall within this exception;

(16) "Lobbying firm" means any firm, corporation, partnership or other business entity that regularly supplies lobbying services to others for compensation;

(17) "Lobbyist" means any person who engages in lobbying for compensation;

(18) "Ministerial action" means an action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, such person's own judgment upon the propriety of the action being taken;

(19) "Official in the executive branch" means the governor, any member of the governor's staff, any member or employee of a state regulatory commission, including, without limitation, directors of the Tennessee Regulatory Authority, or any member or employee of any executive department or agency or other state body in the executive branch;

(20) "Official in the legislative branch" means any member, member-elect, any staff person or employee of the general assembly or any member of a commission established by and responsible to the general assembly or either house thereof who takes legislative action. "Official in the legislative branch" also includes the secretary of state, treasurer, and comptroller of the treasury and any employee of such offices;

(21) "Person" means any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons; and

(22) "Solicit" means to entreat, to implore, to ask, to attempt, or to try to obtain.

§ 3-6-302.

(a)(1) Not later than seven (7) days after becoming an employer of a lobbyist, the employer shall electronically register with the Tennessee Ethics Commission. Each year thereafter, the employer shall register in the same manner if the employer continues to employ one (1) or more lobbyists.

(2) Not later than seven (7) days after becoming a lobbyist, the lobbyist shall electronically register with the ethics commission. Each year thereafter, the lobbyist shall register in the same manner if the lobbyist continues to engage in lobbying.

(3) Within thirty (30) days after registering, each lobbyist shall provide a current photographic portrait to the ethics commission; however, no lobbyist shall be required to submit more than one (1) such portrait during any year.

(b)(1) As a component of the registration process, each employer of a lobbyist shall electronically file a registration statement that includes the following information:

(A) Employer's name, business address, telephone number and e-mail address; and, in the case of a corporation, association or governmental entity, the names of the individuals performing the functions of chief executive officer and chief financial officer;

(B) Name, business address, telephone number and e-mail address of each lobbyist authorized to represent the employer;
and

(C) Verification of delivery, by such lobbyist, of the commission's manual for lobbyists and employers of lobbyists, as required by § 3-6-114.

(2) As a component of the registration process, each lobbyist shall electronically file a registration statement that includes the following information:

(A) Lobbyist's name, business address, telephone number and e-mail address;

(B) Name, business address, telephone number and e-mail address of each employer the lobbyist is authorized to represent;

(C) Subject matters lobbied for such employers during the registration year, to be indicated among general categories listed by the ethics commission;

(D) Name and business address of any member of the lobbyist's immediate family who is an official within the legislative or executive branch; and

(E) The extent of any direct business arrangement or partnership between the lobbyist and any candidate for public office or any official in the legislative or executive branch.

(c) Throughout the year, by amendment electronically filed with the ethics commission, each employer of a lobbyist and each lobbyist shall update, correct or otherwise modify the employer's or lobbyist's registration statement not later than seven (7) days following the occurrence of any event, action or changed circumstance that renders the registration statement inaccurate or incomplete.

(d) By rule, the ethics commission shall authorize a lobbying firm to file consolidated lobbyist registration, registration statements, and registration amendments on behalf of all partners, associates and employees within the firm; however, the partners, associates and employees of the firm shall be individually named and shall remain individually accountable for the timeliness and accuracy of the consolidated filing.

(e) By rule, the ethics commission shall establish registration fees for employers of lobbyists and registration fees for lobbyists. Notwithstanding any provision of § 3-6-111, or any other law to the contrary, such fees shall not be utilized for any purpose other than defrayal of expenses directly related to lobbying regulation, and the appropriate allocation and usage of such fees shall be annually verified by the comptroller of the treasury. The registration fee shall be paid not later than thirty (30) days following submission of a registration statement or amendment through which an employer reports a lobbyist or additional lobbyist or through which a lobbyist reports an employer or additional employer.

(f) Employer and lobbyist registration statements, as may be amended, as well as lobbyist photographs shall be promptly posted on the commission's Internet site.

(g) The complete registration year for employers and lobbyists shall be the period from October 1 through September 30.

§ 3-6-303.

(a) Within forty-five (45) days following conclusion of the six-month periods ending March 31 and September 30, each employer of a lobbyist shall electronically file with the ethics commission the employer disclosure report. For the six-month period, the report shall disclose the following information on a single electronic form:

(1) The aggregate total amount of lobbyist compensation paid by the employer. For purposes of such disclosure, compensation paid to any lobbyist, who performs duties for the employer in addition to lobbying and related activities, shall be apportioned to reflect the lobbyist's time allocated for lobbying and related activities in this state. The aggregate total amount of such lobbyist compensation shall be reported within one (1) of the following ranges:

- (A) Less than \$10,000,
- (B) At least \$10,000 but less than \$25,000,
- (C) At least \$25,000 but less than \$50,000,
- (D) At least \$50,000 but less than \$100,000,
- (E) At least \$100,000 but less than \$150,000,
- (F) At least \$150,000 but less than \$200,000,
- (G) At least \$200,000 but less than \$250,000,
- (H) At least \$250,000 but less than \$300,000,
- (I) At least \$300,000 but less than \$350,000,
- (J) At least \$350,000 but less than \$400,000, or
- (K) \$400,000 or more; provided, however, if the aggregate total amount is reported within this range, then the employer must round such aggregate total amount to the nearest \$50,000 and also report the rounded amount within the disclosure report;

(2) Excluding lobbyist compensation, the aggregate total amount of employer expenditures incurred for the purpose of influencing legislative or administrative action through public opinion or grassroots action, including, but not necessarily limited to, any such expenditures for printing, publishing, advertising, broadcasting, paid announcements, audiotapes, videotapes, compact discs, digital video discs, infomercials, rallies, demonstrations, seminars, lectures, conferences, postage, telephone-related costs, Internet-related services, public relations services, governmental relations services, polling services, travel expenses, grants to issue groups or grassroots organizations, or any similar expense. For purposes of such disclosure, any such expenditure that is made for the purpose of achieving a multi-state effect shall be apportioned equally among such states. The aggregate total amount of such employer expenditures shall be reported within one (1) of the following ranges:

- (A) Less than \$10,000,
- (B) At least \$10,000 but less than \$25,000,
- (C) At least \$25,000 but less than \$50,000,
- (D) At least \$50,000 but less than \$100,000,
- (E) At least \$100,000 but less than \$150,000,
- (F) At least \$150,000 but less than \$200,000,
- (G) At least \$200,000 but less than \$250,000,
- (H) At least \$250,000 but less than \$300,000,
- (I) At least \$300,000 but less than \$350,000,
- (J) At least \$350,000 but less than \$400,000, or
- (K) \$400,000 or more; provided, however, if the aggregate total amount is reported within this range, then the employer must round such aggregate total amount to the nearest \$50,000 and also report the rounded amount within the disclosure report; and

(3) The aggregate total amount of all employer expenditures for any event permissible under § 3-6-305(b)(8).

(b) Employer disclosure reports shall be promptly posted on the commission's web site. Any such posting of an employer's aggregate total expenditures disclosed pursuant to

subdivision (a)(3) above, shall be supplemented by the commission with other information, related to such event or events, delivered or reported to the commission pursuant to § 3-6-305(b)(8).

§ 3-6-304.

(a) No employer of a lobbyist, lobbyist or any person acting at the specific direction of an employer or lobbyist shall offer or attempt to offer anything of value to an official in the legislative or executive branch or to such official's immediate family based on any stated or tacit understanding that the official's vote, official action or judgment would be influenced thereby.

(b) No employer of a lobbyist or lobbyist shall knowingly make or cause to be made any false statement or misrepresentation of the facts concerning any matter for which such lobbyist is registered to lobby to any official in the legislative or executive branch.

(c) No official in the legislative or executive branch or a member of such official's staff or immediate family shall solicit or accept anything of value in violation of subsection (a).

(d) No lobbyist shall make a loan of money to a candidate for public office, official in the legislative or executive branch, or to anyone on their behalf.

(e) No candidate for public office, official in the legislative or executive branch or a member of such official's staff or immediate family shall solicit or accept a loan in violation of subsection (d).

(f) No employer of a lobbyist, lobbyist or any person acting at the direction of an employer or lobbyist shall pay or agree to pay a candidate for public office or official in the legislative or executive branch compensation for property or services substantially in excess of that charged in the ordinary course of business.

(g) No employer of a lobbyist, lobbyist, or any person acting at the direction of an employer or lobbyist shall permit a candidate for public office, official in the legislative or executive branch or a staff member or a member of the candidate or official's immediate family to use the credit or credit card of the employer or lobbyist or any other credit card over which the employer or the lobbyist has control.

(h) Except to the extent permissible under § 3-6-305, no employer of a lobbyist, lobbyist or any person acting at the direction of an employer or lobbyist shall pay the lodging expenses of an official in the legislative or executive branch or immediate family of such official.

(i) No employer of a lobbyist or multicandidate political campaign committee controlled by an employer of a lobbyist shall make any campaign contribution to a candidate for the office of governor or member of the general assembly during any regular annual session or any extraordinary session of the general assembly.

(j) No lobbyist shall offer or make any campaign contribution, including any in-kind contribution, to or on behalf of the governor or any member of the general assembly or any candidate for the office of governor, state senator or state representative.

(k) No employer of a lobbyist shall offer or pay and no lobbyist shall solicit or accept any fee, compensation or bonus for lobbying wherein the amount of the fee, compensation or bonus is contingent upon achievement of an outcome deemed to be successful for the employer.

(l) No member of the general assembly, elected official in the executive branch, member of the governor's cabinet, or cabinet level staff within the governor's office shall be a lobbyist during the twelve-month period immediately following his or her departure from such office or employment.

(m) No lobbyist shall serve as a member of any board, commission or governmental entity of state government having jurisdiction to regulate the business endeavors or professional activities of any employer of the lobbyist; nor shall any lobbyist serve as a member of the state election commission or any county election commission, however, such prohibition does not apply to a lobbyist serving on an election commission, on the effective date of this subsection, as long as the lobbyist continuously serves as a member of that commission.

(n) No official in the legislative or executive branch shall accept travel expenses, meals or lodging paid pursuant to § 2-10-116(a), if payment of such travel expenses, meals or lodging violates any provision of this section or constitutes a prohibited gift under the provisions of § 3-6-305.

§ 3-6-305.

(a)(1) No employer of a lobbyist or a lobbyist may provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediate family of such candidate or official.

(2) A candidate for public office, an official in the legislative branch, or an official in the executive branch, or the immediate family of such candidate or official may not solicit or accept directly or indirectly a gift from an employer of a lobbyist or a lobbyist.

(b) The following are not subject to the prohibition in subsection (a):

(1) Benefits resulting from business, employment, or other outside activities of a candidate or official or the immediate family of a candidate or official, if such benefits are customarily provided to others in similar circumstances and are not enhanced due to the status of the candidate or official;

(2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;

(3) Gifts that are given for a nonbusiness purpose and motivated by close personal friendship, but only to the extent such gifts are specifically defined and authorized by the rules of the ethics commission;

(4) Sample merchandise, promotional items, and appreciation tokens, if such merchandise, items and tokens are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;

(5) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento and similar items; provided, that any such item shall not be in a form which can be readily converted to cash;

(6) Opportunities and benefits made available to all members of an appropriate class of the general public, including but not limited to:

(A) Discounts afforded to the general public or specified groups or occupations under normal business conditions, except that such discounts may not be based on the status of the candidate or official;

(B) Prizes and awards given in public contests; and

(C) Benefits of participation in events held within the state and sponsored by, or for the benefit of, charitable organizations as defined in § 48-101-501(1), if provided by an employer of a lobbyist to an official in the executive branch or to an official in the legislative branch; provided, that such events must be open to participation by persons other than officials in the executive branch or officials in the legislative branch or such official's immediate family and any benefits received must not be enhanced due to the status of the official in the executive or legislative branch, or provided that invitations are extended to the entire membership of the general assembly.

(7)(A) Expenses for out-of-state travel, if such expenses are paid for or reimbursed by a governmental entity or an established and recognized organization of elected or appointed state government officials, staff of state government officials or both officials and staff, or any other established and recognized organization which is an umbrella organization for such officials, staff, or both officials and staff;

(B) Entertainment, food, refreshments, meals, beverages, amenities, health screenings, lodging, or admission tickets that are provided in connection with, and are arranged or coordinated through the employees or designated agents of, a conference if the conference is sponsored by an established and recognized organization of elected or appointed state government officials, staff of state government officials or both officials and staff, or any other established and recognized organization which is an umbrella organization for such officials, staff, or both officials and staff;

(8) Entertainment, food, refreshments, meals, beverages, or health screenings that are provided in connection with an in-state event to which invitations are extended to the entire membership of the general assembly; however, a copy of such invitation must be delivered to the ethics commission and to each member of the general assembly at least seven (7) days in advance of the event by the employer or lobbyist paying for the event; provided further, however, within thirty (30) days following the event, such employer or lobbyist must electronically report to the commission the total aggregate cost paid for the event as well as the per person contractual cost for the event or the per person cost for the event based on the number of persons invited, which shall not exceed fifty dollars (\$50) per person per day excluding sales tax and gratuity. The value of any such gift may not be reduced below such monetary limitation by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists. All such information delivered or reported to the commission shall be promptly posted on the commission's Internet site. By rule, the commission may authorize the filing of a consolidated report if the costs of the event are shared by two (2) or more employers or lobbyists; however, any such report must specify the allocation of the costs among such employers or lobbyists; provided further, however, such employers or lobbyists shall remain individually accountable for the timeliness and accuracy of the consolidated filing. Such fifty dollar (\$50) limitation shall be increased to the nearest one dollar (\$1) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States

Department of Labor, Bureau of Labor Statistics, every odd-numbered year on January 1 starting in 2007. The ethics commission shall publish the increased amount on its web site;

(9) Entertainment, food, refreshments, meals, amenities, or beverages that are provided in connection with an in-state event at which a candidate for public office, an official in the legislative branch or an official in the executive branch, or an immediate family member of such candidate or official is a speaker or part of a panel discussion at a scheduled meeting of an established and recognized membership organization which has regular meetings; however, the cost of such entertainment, food, refreshments, meals, amenities, or beverages must be paid for or reimbursed by the membership organization and the per person cost of the event which shall not exceed fifty dollars (\$50) per person per day, excluding sales tax and gratuity. The value of any such gift may not be reduced below such monetary limitation by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists. Such fifty dollar (\$50) limitation shall be increased to the nearest one dollar (\$1) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States Department of Labor,

Bureau of Labor Statistics, every odd-numbered year on January 1 starting in 2007. The ethics commission shall publish the increased amount on its web site;

(10) Food, refreshments, meals, or beverages that are provided by an employer of a lobbyist in connection with an in-state event to which invitations are extended to an official or officials in the legislative branch or official or officials in the executive branch; provided that:

(A) No employer of a lobbyist may provide food, refreshments, meals, or beverages, the value of which to the official exceeds fifty dollars (\$50) per event per day, excluding sales tax and gratuity; nor may such employer of a lobbyist provide any such items to any official pursuant to this subdivision that have a cumulative value of more than one hundred dollars (\$100) to such official during a calendar year;

(B) The value of any such gift may not be reduced below such monetary limitations by dividing the cost of the gift among two (2) or more employers of lobbyists;

(C) This exception to the prohibition in subsection (a) only applies to a member or members of the general assembly if such member or members do not receive a per diem allowance pursuant to § 3-1-106, for the day on which the event is held and the member or members do not receive any food, refreshments, meals or beverages that are provided in connection with the in-state event that are not offered or provided to other nonmembers in attendance at such event; and

(D) An officer or management-level employee of each employer of a lobbyist paying for the event shall attend the event; however, a lobbyist shall not be considered to be an officer or management-level employee of an employer of the lobbyist paying for the event for purposes of this subdivision. The fifty dollar (\$50) and one hundred dollar (\$100) amounts in subdivision (10)(A) shall be increased to the nearest one dollar (\$1) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States Department of Labor, Bureau of Labor Statistics, every odd-numbered year on January 1 starting in 2007. The ethics commission shall publish the increased amount on its web site; or

(11) Occasional or incidental local travel for which no fare is ordinarily charged.

(c) If an official in the legislative or executive branch attends an event and accepts a gift that is provided by a person or entity not subject to the prohibition set forth in § 3-6-305(a); and if a lobbyist also attends such event and knows or has reason to know that the gift has been provided at the suggestion or direction of such lobbyist; then, within seven (7) days following the event, such lobbyist shall electronically report the following information to the ethics commission:

(1) Name of the official or family member;

(2) Nature and purpose of the event;

(3) Name, address and business of the person or entity that provided the gift;

(4) Description of the gift; and

(5) Cost of the gift; however, if the cost of the gift is unknown and not reasonably discernible by the lobbyist, then the lobbyist shall report a good faith estimate of the cost of the gift.

(d) A gift made contrary to this section shall not be a violation of this section if the candidate, official or immediate family member does not use the gift and returns it to the donor within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation or pays consideration of equal or greater value within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation. § 3-6-306.

- (a) Notwithstanding the provisions of any law to the contrary,
- (1)(A) The ethics commission may administratively assess a civil penalty of not more than twenty-five dollars (\$25.00) per day up to a maximum of seven hundred and fifty dollars (\$750.00) if an employer of a lobbyist:
- (i) Fails, without good cause, to timely register or to timely update, correct or otherwise modify the employer's registration statement;
 - (ii) Fails, without good cause, to timely pay registration fee;
 - (iii) Fails, without good cause, to timely file the employer disclosure report;
- (B) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if an employer of a lobbyist:
- (i) Files information with the commission knowing or having reason to know that such information is inaccurate or incomplete; or
 - (ii) Utilizes the services of a lobbyist knowing or having reason to know that the lobbyist has not registered or that the lobbyist's registration has expired without renewal or has been rejected, suspended or revoked by the ethics commission; or
 - (iii) Knowingly violates any provision of §§ 3-6-304 or 3-6-305, provided that for an initial violation of § 3-6-305 the commission may only assess a civil penalty up to two hundred percent (200%) of the value of any gift or twenty-five dollars (\$25.00) whichever is greater.
- (2)(A) The ethics commission may administratively assess a civil penalty of not more than twenty-five dollars (\$25.00) per day up to a maximum of seven hundred and fifty dollars (\$750.00) if a lobbyist:
- (i) Fails, without good cause, to timely register or to timely update, correct or otherwise modify the lobbyist's registration statement; or
 - (ii) Fails, without good cause, to timely pay a registration fee.
- (B) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if a lobbyist:
- (i) Files information with the commission knowing or having reason to know that such information is inaccurate or incomplete;
 - (ii) Engages in lobbying on behalf of an employer knowing or having reason to know that the employer has not registered or that the lobbyist's registration has expired without renewal or has been rejected, suspended or revoked by the ethics commission; or
 - (iii) Knowingly violates any provision of §§ 3-6-304 or 3-6-305, provided that for an initial violation of § 3-6-305 the commission may only assess a civil penalty up to two hundred percent (200%) of the value of any gift or twenty-five dollars (\$25.00) whichever is greater.
- (3) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if any candidate for public office, official in the legislative or executive branch, or an immediate family member of such candidate or official knowingly violates any provision of §§ 3-6-304 or 3-6-305, provided that for an initial violation of § 3-6-305 the commission may only assess a civil penalty up to two hundred percent (200%) of the value of any gift or twenty-five dollars (\$25.00) whichever is greater. Additionally, if the commission determines that an egregious violation of either such section has been committed by a member of the general assembly, then it may report its findings and actions to the ethics committee of the appropriate house of the general assembly.
- (b) Notwithstanding the provisions of any law to the contrary, the ethics commission may administratively place on probationary status, suspend, reject, or revoke the registration of any lobbyist who knowingly and persistently violates the provisions of this part. As used in

this subsection, "persistently" means three (3) or more occasions during a two-year period of any general assembly.

(c) On its Internet site, the ethics commission shall promptly post the names of all employers and lobbyists who are:

- (1) Delinquent in filing registration, registration statements or amendments thereto;
- (2) Delinquent in filing disclosure reports;
- (3) Delinquent in paying registration fees or civil penalties; or
- (4) Found to have committed any other violation of this part.

Additionally, the commission shall post the names of all lobbyists having expired, probationary, suspended, rejected, or revoked registration. The commission shall also post the names of any other person found to have knowingly violated any provision of §§ 3-6-304 or 3-6-305.

(d) An intentional violation of this part constitutes a criminal offense and is punishable as a Class C misdemeanor for the first offense, as a Class B misdemeanor for the second offense, and as a Class A misdemeanor for the third and subsequent offenses.

(e) In the chancery court of Davidson County, the ethics commission may seek injunctive relief to prevent any employer of a lobbyist, lobbyist, candidate for public office, official in the legislative or executive branch, or the immediate family of such candidate or official from engaging in any continuing violation of this part.

(f) It is a Class B misdemeanor for any person to file with the ethics commission a sworn complaint, alleging a violation of this part, which is known to be false.

§ 3-6-307.

(a) Notwithstanding any provision of this chapter to the contrary, if a person receives as compensation for lobbying only reimbursement for actual out-of-pocket personal expenses, and if such person receives such reimbursement for ten (10) days or less per year, then such person is not a lobbyist for purposes of this chapter or § 67-4-1702(a)(1).

(b) Notwithstanding any provision of this chapter to the contrary, if a person receives as compensation for lobbying only reimbursement for actual out-of-pocket personal expenses, and if such person receives such reimbursement for more than ten (10) days per year, then such person shall register as a lobbyist and shall comply with all lobbyist requirements imposed pursuant to this chapter, but shall be exempt from payment of the occupational privilege tax on lobbyists imposed by § 67-4-1702(a)(1).

(c) Notwithstanding any provision of this chapter to the contrary, if an individual or entity employs, retains or otherwise arranges for one or more persons to engage in lobbying for compensation, and if the only compensation paid is reimbursement for actual out-of-pocket personal expenses, and if such reimbursement is not paid for more than ten (10) days per person per year, then such individual or entity is not an employer of a lobbyist for purposes of this chapter.

(d) For purposes of this section, the term "out-of-pocket personal expenses" includes such things as the lobbyist registration fee, legislative information services material, copying expenses, transportation costs, parking fees, personal lodging and food expenses incurred while actually engaging in lobbying. Reimbursement for transportation, parking, personal lodging and food costs shall be limited to expenses allowed for such items in the comprehensive state travel regulations. No such reimbursed expenses shall be for the benefit of any public official except for informational materials delivered to public officials.

§ 3-6-308.

- (a) The provisions of this part shall be administered and enforced by the ethics commission. To such end, it is the duty of the ethics commission to:
- (1) Develop, with the advice, assistance and approval of the Office of Information Resources, and prescribe electronic forms for registration, registration statements, amendments to registration statements, disclosure reports and other information required to be reported pursuant to this part;
 - (2) Preserve such registration, registration statements, amendments to registration statements, disclosure reports and other filed information for a period of at least five (5) years, or longer when there is a pending investigation by the commission or any law enforcement agency or when there is an ongoing administrative or judicial proceeding related to any such registration, statements, amendments, reports or information;
 - (3) Develop a filing, coding and cross-indexing system consistent with the purposes of this part;
 - (4) Issue, and publish, upon proper request from any employer or lobbyist or public official, advisory opinions concerning the requirements of this part;
 - (5) Accept the electronic filing of any pertinent information voluntarily supplied that exceeds the requirements of this part;
 - (6) Review electronic filings submitted pursuant to this part to ensure compliance with the laws administered and enforced by the ethics commission. Filings older than two (2) years shall be deemed to be sufficient, absent a showing of fraud;
 - (7) Audit each year the registration statements, amendments to registration statements and reports of at least two percent (2%) of all lobbyists. The attorney general and reporter, or the attorney general's designee, shall attend the random selection proceeding in order to preserve the integrity of such proceeding. Nothing contained within the provisions of this subdivision shall be construed to prevent the commission, upon finding probable cause to believe that an employer or a lobbyist has violated the provisions of this part, from auditing the registration statements, amendments to registration statements and reports of such employer or lobbyist;
 - (8) Compile and publish, on the commission's Internet site, the following reports listing:
 - (A) All registered employers, alphabetically;
 - (B) All registered lobbyists, alphabetically; and
 - (C) Each subject matter category specified by the ethics commission for purposes of § 3-6-302(b)(2)(C), with each lobbyist listed thereunder who lobbied such subject matter category during the registration year. The ethics commission may prepare and publish on its Internet site such other reports as are deemed to be appropriate and in the public interest;
 - (9) Promulgate any rules and regulations as may be appropriate for the administration of this part; provided, that such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5; and
 - (10) Impose civil penalties and other administrative sanctions in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.
- (b) It is the duty of the attorney general and reporter to render opinions and give counsel to the ethics commission upon request of the executive director.
- (c) Notwithstanding the provisions of any law to the contrary, audit and investigatory information shall be confidential and shall be maintained, as such, by the members and employees of the ethics commission and by the officers and employees of the state in the manner and to the extent that the confidentiality of tax information is maintained by the

officers and employees of the Department of Revenue and the state under the provisions of Title 67, Chapter 1, Part 17.

Appendix 2: VALUES FOR LOBBYISTS AND EMPLOYERS OF LOBBYISTS*

**The Tennessee Ethics Commission wishes to thank the American League of Lobbyists (“ALL”) for its permission to quote the following values from ALL’s Code of Ethics. For a complete copy of their Ethics Code please visit ALL’s website at www.alldc.org/ethicscode.htm.*

HONESTY AND INTEGRITY

A lobbyist should conduct lobbying activities with honesty and integrity.

COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS AND RULES

A lobbyist should seek to comply fully with all laws, regulations, and rules applicable to the lobbyist.

PROFESSIONALISM

A lobbyist should conduct lobbying activities in a fair and professional manner.

CONFLICTS OF INTEREST

A lobbyist should not continue or undertake representations that may create conflicts of interest without the informed consent of the client or potential client involved.

DUE DILIGENCE AND BEST EFFORTS

A lobbyist should vigorously and diligently advance and advocate the client’s or employer’s interest.

COMPENSATION AND ENGAGEMENT TERMS

An independent lobbyist should have a written agreement with the client regarding the terms and conditions for the lobbyist’s services, including the amount of and basis for compensation.

CONFIDENTIALITY

A lobbyist should maintain appropriate confidentiality of client or employer information.

PUBLIC EDUCATION

A lobbyist should seek to ensure better public understanding and appreciation of the nature, legitimacy, and necessity of lobbying in our democratic governmental process.

DUTY TO GOVERNMENTAL INSTITUTIONS

A lobbyist should exhibit proper respect for the governmental institutions before which the lobbyist represents and advocates clients' interests.